

## State Lawmakers Love Film Tax Incentives, but at What Price?

by Karen Setze — [ksetze@tax.org](mailto:ksetze@tax.org)

Like Cassandra, who warned the Trojans not to accept the wooden horse, Michigan Sen. Nancy Cassis (R) in 2008 stood alone in opposition to enacting what Gov. Jennifer Granholm (D) later described as “the nation’s most aggressive film incentives.”

Cassis later told Tax Analysts:

The part of the 14-bill package that created the film tax credit program, the bill I voted against — and I was the only member of the Legislature to do so — was the most generous refundable tax credit in the nation: 40 to 42 percent [of production costs].

The Senate Fiscal Agency couldn’t determine how much the bill would cost but predicted that it would be “substantial,” she said.

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That prediction has proved true, Cassis said: For 2009 the cost approaches \$100 million, even when the economic activity the credits generated is included in the equation. If the program continues unchanged, in 2010 the state will be sending “\$150 million in subsidy checks to Hollywood producers,” she said.

The credits were “more successful than we anticipated,” said Sen. Tom George (R), who told Tax Analysts that he voted for the credits and still supports them. “I think we were a little too generous. We need to make them a little more modest.”

Currently, 46 states, Puerto Rico, and the District of Columbia are offering tax breaks to attract film and television production in the hopes of generating good-paying jobs. The effectiveness and cost of the incentives is the subject of vigorous debate and competing studies in Michigan and elsewhere.

One reason for scaling back the credits is Michigan’s plummeting revenue. The state’s budget officers reported that they were expecting revenue on par with that of fiscal 1988, said Arturo Perez, program principal for the National Conference of

State Legislatures, at the Multistate Tax Commission’s annual conference in July in Kansas City. (For prior coverage of the conference, see *State Tax Notes*, Aug. 3, 2009, p. 285, *Doc 2009-17212*, or *2009 STT 144-2*.)

The state is facing a combined budget gap of \$2.8 billion, including the shortfalls in the school aid fund and the general fund, Cassis said.

By September, the struggle to eliminate the state’s budget shortfall finally forced the reluctant governor to consider cutting back the film incentives. *The Detroit News* reported that in her latest budget proposal, Granholm suggested trimming the credits by the same 12 percent by which other spending would be cut — for a top rate of 37 percent.

Cassis thinks Granholm’s proposal doesn’t go far enough.

“To the governor’s credit,” Cassis said, “she has realized what I’ve said all along,” that the state can’t continue providing such generous credits. But the proposed cuts are a “small morsel,” Cassis said. The state is cutting education funding and revenue sharing that many local governments use to provide police and fire protection, showing a preference for film producers over Michigan residents, she said.

### Do the Credits Attract Jobs?

“The jobs and economic growth created by film productions with the help of such tax incentives are often overstated,” said John Nothdurft, legislative specialist for the Heartland Institute, in a November 21, 2008, commentary. (As of September 30, the article could be accessed at [http://www.heartland.org/policybot/results/24204/Film\\_Tax\\_Credits\\_Do\\_They\\_Work.html](http://www.heartland.org/policybot/results/24204/Film_Tax_Credits_Do_They_Work.html) [www.heartland.org](http://www.heartland.org).)

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The Mackinac Center for Public Policy and the Anderson Economic Group have criticized Michigan’s film credits as expensive while doing a poor job of spurring economic development and creating permanent jobs.

The Anderson report, commissioned by the Michigan Education Association, indicated the state had paid \$50,000 for each job created. (For coverage of the report, see *State Tax Notes*, May 25, 2009, p. 614, *Doc 2009-11247*, or *2009 STT 93-23*.)

The 1,102 full-time-equivalent jobs created in 2008 by the film incentive was “an insignificant number in a state the size of Michigan,” according to the Mackinac report.

Nor are the jobs created all high-paying. Cassis said she’s been told by a Screen Actors Guild representative that 90 percent of the people associated with the film industry “have a second job to keep a roof over their heads and food on the table.”

Oakland County Treasurer Andy Meisner, who helped draft the film tax credit while a member of the Legislature, was quoted by the *Detroit Free Press* as saying that the film incentive is a tax credit that is producing jobs and that it would be a mistake to tinker with it.

Steven Miller, director of the Center for Economic Analysis at Michigan State University, said that it is unrealistic to expect the credits to be cost effective in the early years of the program and that they should be looked at as a long-term investment. The goal, he said, is for the bulk of the investment to shift from movies shot in Michigan to Michigan-based production companies and the infrastructure supporting them.

### Other States’ Experiences

While he has been willing to consider reining in other business tax breaks, New Mexico Gov. Bill Richardson (D) has stood firm in defending his state’s film tax credits. New Mexico has been the sixth most generous state to film producers, giving out \$34.5 million in credits in fiscal 2007.

**Connecticut’s film tax credit — estimated to total \$90 million for fiscal 2009 — ‘does not ‘pay for itself,’ Weiner said.**

According to an Ernst & Young LLP study commissioned by the state’s Film Office and State Investment Council and issued in January 2009, New Mexico in 2007 saw 30 films produced, generating \$49.4 million in tax credits. The study said state and local governments together were collecting \$1.50 for each \$1 of state credits.

And analyses by Economics Research Associates of the Louisiana and Pennsylvania film tax credit programs found a “net fiscal gain” when the revenue generated by each state’s whole film industry is included in the calculation.

However, in a January memo, Jennifer Weiner, policy analyst for the New England Public Policy Center at the Federal Reserve Bank of Boston, wrote that Connecticut’s film tax credit — estimated to total \$90 million for fiscal 2009 — “does not ‘pay for itself.’”

Weiner wrote:

A study undertaken by Connecticut’s Department of Economic and Community Development (DECD) estimated that in 2007 each initial dollar of film tax credit granted by the state was offset by about 7 cents in new tax revenue and by about thirteen cents in reduced government spending. Thus, on net, each dollar of film tax credit granted still cost the state roughly \$0.80.

A Massachusetts Department of Revenue report was quoted by *The Boston Globe* as saying that the state’s film tax credits were returning 16 cents for every dollar the state gave out.

### States Scaling Back

This year Indiana cut the amount of film tax credits available each year from \$5 million to the current \$2.5 million, and it ended the sales tax exemption for items purchased as part of a media production.

Rhode Island, which continues to face high unemployment, decided in 2008 to cap the state’s transferable credits at \$15 million per year. *The Providence Journal* quoted House Speaker William J. Murphy (D) as saying the state can’t afford to offer limitless credits in tough economic times.

The Michigan governor’s reluctance to rein in that state’s film credits, according to *Detroit News* columnist Neal Rubin, was typified by her participation in an advertising campaign for filmmaking in Michigan.

Rubin said in a July 19 column:

A small crew of legislators wants to cap, slice or otherwise castrate the tax incentive that quickly made Michigan an attractive place to set up a camera, and this is the governor’s way of saying it won’t happen.

Two of those interested in capping Michigan’s credits are Cassis and George. During the 2008 session, George proposed an annual cap of \$100 million, which was reduced to \$50 million by the Senate Finance Committee, chaired by Cassis. The bill never got a vote on the Senate floor, George said. He hopes things will be different in 2009.

Like George, Cassis doesn’t seek to end the film incentive program but does think the state should “cap it responsibly and make it affordable.”

Once the program is set at a fixed amount, Cassis said, “you can plan and budget around it. Otherwise it is an open checkbook.”

It is some of the other media, like video gaming, cartoon production, and commercial advertising, rather than filmmaking, that Cassis believes could produce permanent jobs and help diversify the state’s economy.

With the millions of dollars involved in the film incentives, it’s not surprising that corruption may occasionally arise.

In July the talk about film credits in Iowa concerned whether the program was too generous and should be scaled back to help fill the state's budget hole. Two months later, Gov. Chet Culver (D) fired the head of the Iowa Film Office a few days after accepting the resignation of the director of the Department of Economic Development, which oversaw the film office. Both departed as questions arose about credits some film projects received. (For prior coverage, see *Doc 2009-21419* or *2009 STT 185-13*.)

The film office has been shut down, and the tax credit program has been suspended. The apparent irregularities raised questions about the rest of the state's tax breaks. On September 23 Radio Iowa quoted Culver as calling for a "thorough review" of all the state's tax credits.

### States Without Incentives

The only states that have never offered tax breaks to lure film and television projects — Delaware, Nevada, and New Hampshire — have such low taxes that earlier this year a European Union official branded two of them "tax havens." (For Luxembourg Prime Minister Jean-Claude Juncker's comments, see *State Tax Notes*, Apr. 6, 2009, p. 7, *Doc 2009-7331*, or *2009 STT 61-2*.)

While Nebraska is currently among the no-film-break states, it may not remain there. Legislation offering tax breaks has been introduced in several recent sessions, including 2009. ☆